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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 92-77
Billed Party Preference	)	
for "0+" InterLATA Calls	)	

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COMMENTS OF THE
NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

The National Telephone Cooperative Association ("NTCA") submits these Comments in response to the request in Public Notice DA 95-473 released on March 13, 1995 ("Notice"). The Notice requests comments on an ex parte filing by the Competitive Telecommunications Association, Bell Atlantic, BellSouth Telecommunications, MFS Communications, NYNEX, Teleport Communications Group, and US West (hereafter COMPTEL) on a proposal to place a rate ceiling on "0+" operator services calls in lieu of establishing mandatory Billed Party Preference ("BPP").

NTCA is a national association of approximately 500 local exchange carriers ("LECs") providing telecommunications services to subscribers and interexchange carriers ("IXCs") throughout rural and small-town America. NTCA has previously filed comments opposing mandatory BPP.

DISCUSSION

COMPTEL correctly points out in its introductory arguments that NTCA is among the great majority of interested parties that now oppose BPP. NTCA agrees with COMPTEL that BPP has been overtaken by events. In its Comments and Reply filed in this

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proceeding, NTCA opposed BPP but nonetheless identified unreasonably high rates and lack of convenient access to carriers of choice as the remaining unresolved problems which the Commission should address. In its ex parte filing, COMPTEL states that the lingering remaining concern which originally prompted support for BPP is "excessive rates." It states that this concern is the principal remaining factor which generates complaints at the Commission. Its proposal is intended to resolve this concern promptly and without the necessity of mandating billions of dollars in unnecessary investment.[1]

The essence of COMPTEL's alternative to BPP is a proposal that the Commission adopt a rate ceiling for operator assisted or "0+" interstate calls and a system for monitoring compliance with the ceiling. COMPTEL's proposal is predicated on the Commission's Title II authority including 47 U.S.C. §§ 201(b) and 205(a) giving it authority to ensure that rates are just and reasonable and 47 U.S.C. § 203(a) authorizing it to require information in support of proposed rates and conduct investigations into rates where warranted. COMPTEL also relies on 47 U.S.C. § 204(a) as authority for the Commission to identify presumptively lawful rate levels and require the filing of tariffs and cost support information.[2]

COMPTEL proposes a rate ceiling which provides a set of maximum usage based charges to end users. The ceiling or

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1 Ex Parte filing at 4-5.

2 COMPTEL at 5.

benchmark rates are calculated on a per minute basis, without regard to time-of-day, distance, automated or live, calling card or collect, or any other factors. For collect, calling card or third party calls, the benchmark proposed ranges from $3.75 for a 1 minute call to $7.00 for a 9 minute call. For person to person calls, the range goes from $4.75 for a 1 minute call to $8.00 for a 9 minute call. An increment of $0.35 is charged for each tenth and additional minute of any type call.

COMPTEL describes what it calls "Monitoring Made Simple" as the enforcement mechanism for its proposal.[3] Unfortunately, the procedures COMPTEL describes and proposes are neither simple nor desirable insofar as NTCA's members are concerned. While NTCA is not opposed to the imposition of rate caps or the use of benchmarks for "0+" interstate calls, it does not favor a plan that would place the burden of monitoring and enforcement on its LEC members.

The plan proposed by COMPTEL would require that billing LECs supply the Commission with a quarterly report and more detailed call by call reports for those Operator Service Providers the Commission targets for action. LEC quarterly reports would have to list total calls for the quarter by Operator Service Provider, the number of calls exceeding rate ceilings, the number of calls reviewed and the percentage of calls reviewed exceeding the ceilings. It is not clear how LECs would determine what calls to review.

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[3] Id. at 8.

The proposal for LEC monitoring should not be adopted. The burden of compliance with any benchmark approach for "0+" interstate calling should be placed squarely on Operator Service Providers who benefit from providing these competitive services. The OSPs who choose to compete to provide these services should like all providers whose services are subject to Commission jurisdiction take upon themselves the obligation to comply with the Communications Act provisions COMPTEL relies on, 47 U.S.C. Sections 201(b), 203(a), 204(a), and 205(a). Each of these provisions of the ACT imposes obligations, whether tariff filing or reporting, upon the affected carrier providing the service, rather than on third parties. If compliance and enforcement requires reporting, reporting should be made by the OSPs. They, not the telephone companies establish charge for services and have first hand knowledge of the rates they charge and the revenues they receive for services. They, not the telephone companies, have the legal obligation to comply with Commission regulations regarding the rates for the "0+" services they provide.

The proposed monitoring procedures will impose on small LECs a burden which is not inconsequential and one which they do not desire to assume. While the proposed monitoring may be simple for the larger carriers who agree to the proposal, for NTCA members, it represents a new layer of reporting that must be assumed by the small company irrespective of existing staffing, existing regulatory burdens or existing business operations.

Even if the monitoring plan provides for the recovery of costs, the Commission should not mandate LEC participation in it. The LECs should at least be free to decide whether any included compensation mechanism is sufficient reimbursement for the additional costs and burdens that will have to be assumed. A mandate should not be imposed without regard for the LEC's desires, its ability to assume the additional duties of monitoring without disruption of its operations or business plans, and other factors that individual LECs may want or need to consider.

CONCLUSION

For the above stated reasons, NTCA urges the Commission not to mandate that LECs provide quarterly reports or otherwise assume the obligation of monitoring the proposed rate ceiling plan.

Respectfully submitted,

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April 12, 1995

CERTIFICATE OF SERVICE

I, Rita H. Bolden, certify that a copy of the foregoing Comments of the National Telephone Cooperative Association in CC Docket No. 92-77 was served on this 12th day of April 1995, by first-class, U.S. Mail, postage prepaid, to the following persons on the attached list.

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